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OFFICE OF PETITIONS

In re Application of :
He, et al. :
Application No. 10/618,272 :
Filed: July 11, 2003 :
Attorney Docket No. 2107-26 :
ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed June 1, 2006, to withdraw the holding of abandonment.

This application became abandoned for failure to timely file a proper reply to the non-final Office action mailed October 25, 2005, which set a one (1) month period for reply. Accordingly, this application became abandoned on November 26, 2005. A Notice of Abandonment was mailed on June 8, 2006

Petitioner asserts the Office action was not received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

The required statements and docket records have been submitted and considered.

The petition is granted. In view thereof, the holding of abandonment is withdrawn.

The file is being forwarded to Technology Center 2800 for review of the "Response to Restriction Requirement," filed June 1, 2006, *in due course*.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy